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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,

Plaintiff,

v.

Grand Canyon Education, Inc., et al.,

Defendants.

No. 2:23-cv-02711-PHX-DWL

**DECLARATION OF DERIN B.
DICKERSON IN SUPPORT OF
DEFENDANT GRAND CANYON
EDUCATION, INC.'S AND
DEFENDANT BRIAN E. MUELLER'S
MOTION TO COMPEL**

1 I, Derin B. Dickerson, declare as follows:

2 1. I am an attorney licensed to practice in the State of Georgia and admitted *pro*
3 *hac vice* to practice before this Court in the above-captioned matter. I am currently a partner
4 at the law firm Alston & Bird, LLP, and counsel of record for Defendant Grand Canyon
5 Education, Inc. (“GCE”). I have personal knowledge of the matters set forth in this
6 Declaration, and if called upon to testify in court, I could and would do so competently.

7 2. On September 17, 2024, Plaintiff Federal Trade Commission (the “FTC”) served
8 its Initial Disclosures. A true and correct copy of the FTC’s Initial Disclosures is attached
9 hereto as **Exhibit A**.

10 3. On October 8, 2024, GCE served its First Set of Requests for Production
11 (“Requests”) on the FTC. A true and correct copy of those Requests is attached hereto as
12 **Exhibit B**.

13 4. Also on October 8, 2024, GCE served its First Set of Interrogatories (the
14 “Interrogatories”) on the FTC. A true and correct copy of those Interrogatories is attached
15 hereto as **Exhibit C**.

16 5. On November 7, 2024, the FTC served boilerplate responses and objections to
17 the Requests. The FTC stated it was withholding documents based on the work product
18 doctrine, the deliberative process privilege, the informant’s privilege, and the law enforcement
19 privilege in response to Request Nos. 1-7, 10, 12-20. A true and correct copy of the FTC’s
20 responses and objections to the Requests is attached hereto as **Exhibit D**.

21 6. Also on November 7, 2024, the FTC served boilerplate responses and objections
22 to the Interrogatories. The FTC stated it was withholding documents based on the work
23 product doctrine, the deliberative process privilege, the informant’s privilege, and the law
24 enforcement privilege in response to Request Nos. 1-4, 10-18. A true and correct copy of the
25 FTC’s responses and objections to the Interrogatories is attached hereto as **Exhibit E**.

26 7. On December 13, 2024, GCE electronically transmitted a letter to the FTC
27 concerning, among other things, the FTC’s boilerplate assertions of the work-product doctrine
28

1 and various governmental privileges in response to GCE's Requests and Interrogatories. A
2 true and correct copy of the letter is attached hereto as **Exhibit F**.

3 8. On January 6, 2025, the FTC served supplemental boilerplate responses and
4 objections to GCE's Requests, repeating the assertions of work product and privilege. A true
5 and correct copy of the FTC's supplemental responses and objections to the Requests is
6 attached hereto as **Exhibit G**.

7 9. On January 21, 2025, the FTC served supplemental boilerplate responses and
8 objections to GCE's Interrogatories, repeating the assertions of work product and privilege. A
9 true and correct copy of the FTC's supplemental responses and objections to the
10 Interrogatories is attached hereto as **Exhibit H**.

11 10. On March 4, 2025, GCE electronically delivered a second letter objecting to the
12 FTC's boilerplate and deficient assertions of the work product doctrine and governmental
13 privileges. A true and correct copy of the letter is attached hereto as **Exhibit I**.

14 11. On March 21, 2025, the FTC served a conclusory and boilerplate privilege log
15 (the "March Log"), as well as an accompanying transmittal letter, asserting the work product
16 doctrine, the deliberative process privilege, the informant's privilege, and the law enforcement
17 privilege to withhold over 700 documents. A true and correct copy of the FTC's transmittal
18 letter is attached hereto as **Exhibit J**. A true and correct copy of the FTC's transmittal letter
19 is attached hereto as **Exhibit K**.

20 12. On April 25, 2025, GCE electronically transmitted a third letter to the FTC
21 objecting to the FTC's continued reliance on boilerplate and deficient assertions of the work
22 product doctrine and governmental privileges. A true and correct copy of the letter is attached
23 hereto as **Exhibit L**.

24 13. On May 6, 2025, the parties met-and-conferred to discuss the FTC's work
25 product and privilege assertions. Despite plain deficiencies, the FTC continued to assert work
26 product and privilege over the 700 communications in the March Log.

27 14. On May 15, 2025, the FTC electronically transmitted a follow-up letter to GCE
28 in which it stated that it would withdraw work product claims over five communications with

1 outside counsel for EducationDynamics, a GCE contractor. Despite this, the FTC said it would
2 continue to withhold these communications because they are purportedly not relevant to any
3 claim or defense in this action. A true and correct copy of the letter is attached hereto as
4 **Exhibit M**.

5 15. On May 22, 2025, the parties filed two joint discovery statements concerning
6 the FTC's assertions of work product protection and governmental privileges. Attached as
7 **Exhibit N** is Defendants submission required under Local Rule 37.1, which summarizes the
8 requests for production, the objections received, and why those objections are deficient.

9
10 Respectfully submitted this 6th day of June, 2025.

11
12 /s/ Derin B. Dickerson

13 Derin B. Dickerson, GA Bar #220620
14 (*pro hac vice*)

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